

November 7, 2018

Mr. Henry Leskinen  
Eco-Science Professionals  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Vincent Estates, White Marsh  
Forest Conservation Variance  
Tracking # 06-18-2809

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on September 17, 2018. This request would allow removal of seventeen specimen trees in conjunction with a proposed nineteen lot major subdivision. There are a total of forty-five specimen trees on the property. Six of the seventeen specimen trees proposed for removal are in fair or poor condition. The seventeen specimen trees are proposed for removal because they will be impacted by the proposed house construction and grading associated with the subdivision.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The petitioner is proposing the construction of a nineteen lot residential subdivision on a property that is zoned DR-3.5 and RC-3. The houses are proposed on the DR-3.5 zoned portion of the property while the majority of RC-3 portion of the property will be protected with forest buffer and forest conservation easements. Impacts to the seventeen specimen trees could be avoided by reducing the number of lots within the proposed subdivision. Since it is possible to develop the property without impacting the specimen trees, compliance with the Forest Conservation Law will not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has been not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. There are forty-five specimen trees that are scattered through-out and immediately adjacent to the property. The need to remove the specimen trees is a result of their

distribution across the property and the grading required for the homes and associated infrastructure. These circumstances are unique to this property and not the general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The lots in adjacent subdivisions are similar in size and were developed in a similar fashion to this proposed development. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are only two small isolated man-induced wetlands on the property which are of limited value. No streams are located on the property. The majority of the forest to be protected is located at the northern end of the property and adjacent to wetlands and streams associated with White Marsh Run. By protecting this forest and concentrating the proposed development at the southern end of the property, the property owner is limiting any water quality impacts from the proposed development. In addition, storm water management (SWM) will be provided in accordance with Baltimore County's SWM Law. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The variance request arises from the distribution of the specimen trees on the property. The majority of the development is proposed on the DR-3.5 zoned portion of the property that is designated for high density residential development. The specimen trees are scattered through-out the DR-3.5 zoned area making it extremely difficult to develop the site without impacting the specimen trees and their critical root zones. Therefore, the petitioner has taken no actions necessitating this variance prior to its request, and this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Only seventeen of the forty-five specimen trees located on or immediately adjacent to the property are proposed for removal. The remaining specimen trees located on the property will be protected in a Forest Conservation Easement. The 20.7-acre property has three separate forest stands that total 15.8 acres. More than half of the forest on site will be protected in forest buffer and forest conservation easements. The majority of the forest and specimen trees proposed to be cleared on the property are located in the DR 3.5 zoned area which is designated for high density residential development. While the DR-3.5 zoning allows for thirty-one lots, the property owner is only proposing nineteen lots to reduce the amount of forest clearing and impacts to specimen trees. Furthermore, the property owner is also limiting site grading to save more forest and specimen trees. Finally, the majority of the forest to be protected is located in the lower density RC-3 zoned area of the property that is adjacent to wetlands and streams associated with White Marsh Run. Given that the property owner has proposed protecting more than 50% of the existing forest and specimen trees by limiting grading activities and developing the site well below the allowed density, we find that this variance

Mr. Henry Leskinen  
Vincent Estates  
Forest Conservation Variance  
November 7, 2018  
Page 3

request is consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. No mitigation is required for the removal of the seventeen specimen trees because they are located within the forest onsite and forest conservation will be addressed for the major subdivision.
2. The final forest conservation plan must reflect the conditions of this variance and show the critical root zone (CRZ) of all specimen trees on or near the property (i.e. with CRZ on the property).
3. All plans prepared for Vincent Estates subdivision must include the following note:

“A special variance to the Forest Conservation Law was granted by Baltimore County Department of Environmental Protection & Sustainability on November 7, 2018 to allow the removal of seventeen specimen trees. No mitigation is required for the removal of these specimen trees since they are located within the forest onsite and forest conservation will be addressed for the major subdivision. “

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Gris Batchelder at (410) 887-3980.

Sincerely,

David V. Lykens  
Deputy Director

DVL/cgb

cc : Marian Honeczy, Maryland Department of Natural Resources  
John Motsco, Little and Associates, Inc.

Mr. Henry Leskinen  
Vincent Estates  
Forest Conservation Variance  
November 7, 2018  
Page 4

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

---

Responsible Party's Signature

Date

---

Responsible Party's Printed Name